

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

ROBERT B. STANLEY,)	
)	
Appellant,)	
)	
v.)	C.A. No. 09A-10-007 WCC
)	
UNEMPLOYMENT INSURANCE,)	
APPEAL BOARD,)	
)	
Appellee.)	

Submitted: August 2, 2010
Decided: September 29, 2010

OPINION

Appeal from Unemployment Insurance Appeal Board. REVERSED.

Robert B. Stanley, 11 Lexington Drive, Middletown, DE 19709. *Pro Se* Appellant.

Philip G. Johnson, Esquire, Department of Justice, 820 N. French Street, Wilmington, Delaware 19801. Counsel for Unemployment Insurance Appeal Board.

CARPENTER, J.

In this matter, Robert B. Stanley (the “Appellant”) challenges the determination by the Unemployment Insurance Appeals Board (the “Board”) that he is not currently eligible to collect unemployment benefits because he continues to perform minimal, uncompensated services for a corporation that has ceased business operations but that has not yet been legally dissolved. The Court must determine whether the Board’s conclusion is supported by substantial evidence and is free from legal error. Upon review of the record in this matter, the Court concludes that Appellant is eligible to receive benefits. Accordingly, the decision of the Board is reversed.

Facts

Appellant was employed as the President and Treasurer of Stanley Builders, Inc., a general contracting business that built custom homes and other light commercial buildings.¹ He owned fifty percent of the stock of Stanley Builders.² Appellant’s wife and business partner, Carolyn A. Stanley, owned the other fifty percent of the stock and served as the corporation’s Vice President and Secretary.³ In 2008, Appellant was paid a salary of \$25,000 as compensation for his services.⁴

Stanley Builders ceased business operations on April 1, 2009.⁵ However, the corporation was not in bankruptcy and has not filed for a Certificate of Dissolution

¹ Finding of Facts at 1.

² *Id.*

³ Decision of Referee at 2.

⁴ *Id.*

⁵ *Id.*

from the Secretary of State.⁶ The decision to close Stanley Builders was the result of adverse economic conditions. The corporation earned a net income of \$52,000 in 2005 and \$19,000 in 2006.⁷ It suffered net losses in 2007 and 2008.⁸ The business reported no income during the second quarter of 2009. Stanley Builders' last contract to build a house was in January 2008 and its last settlement was in August 2008.⁹

After the close of business operations, Appellant and his wife remained engaged in the process of wrapping up the corporation. Appellant estimated that he spent less than five hours per month assisting with the wrapping up of Stanley Builders' business during the period from April 1, 2009 to July 31, 2009.¹⁰ From August 31, 2009 to the present, Appellant estimated that he spent less than two hours per month assisting with the wind-up process.¹¹ He received no compensation for these services.¹² Appellant and his wife are both actively seeking employment.¹³

Procedural Background

Appellant filed a claim for unemployment benefits with the Delaware Department of Labor on April 5, 2009.¹⁴ On April 23, 2009, the claims deputy

⁶ *Id.*

⁷ Decision of Referee at 6.

⁸ Decision of Referee at 6.

⁹ Decision of Board at 2.

¹⁰ Appellant's Opening Brief at 3.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 5.

¹⁴ Finding of Facts at 1.

referred Appellant's case to the Appeals Referee for an initial hearing and determination on whether his ownership of the business affected his eligibility to receive unemployment benefits.¹⁵ A hearing was held on May 19, 2009, at which time the Referee determined that Appellant was disqualified from receiving benefits under 19 *Del. C.* §3314(1) because he voluntarily left his employment without good cause.¹⁶ Appellant subsequently appealed to the Board, which heard Appellant's case on July 22, 2009.¹⁷ On October 19, 2009, the Board issued a decision affirming and modifying the Referee's decision to deny benefits to Appellant.¹⁸ The Board concluded that the Referee's determination that Appellant was disqualified from collecting benefits because he had voluntarily left his employment without good cause was factual and legal error. However, the Board concluded that Appellant was ineligible for benefits because he was still performing services for the corporation and thus he failed to satisfy the definition of unemployment under 19 *Del. C.* § 3302(17).¹⁹ On October 28, 2009, Appellant timely filed notice of appeal with this Court.

¹⁵ Notice of Determination at 2.

¹⁶ Decision of Referee at 7.

¹⁷ Decision of Board at 1.

¹⁸ *Id.* at 2.

¹⁹ *Id.* at 3.

Discussion

Robert B. Stanley (the “Appellant”) appeals the determination by the Unemployment Insurance Appeals Board (the “Board”) that he is not currently eligible to collect unemployment benefits because he continues to perform minimal, uncompensated services for a corporation that has ceased business operations but that has not yet been legally dissolved. Appellant’s wife and business partner, Carolyn A. Stanley, previously appealed the Board’s denial of unemployment benefits to her in *Stanley v. Unemployment Ins. Appeal Bd.*²⁰. In that decision, this Court concluded that the Board’s determination that Mrs. Stanley was not eligible for benefits was legal error and reversed the Board’s decision. Appellant’s claim to unemployment benefits arises from the same facts as his wife’s claim to unemployment benefits and presents the same legal issues. Accordingly, the Court adopts the reasoning set forth in the *Stanley* decision and finds that Appellant is eligible to receive unemployment benefits for the reasons set forth in *Stanley*. The decision of the Board is therefore REVERSED.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr.

Judge William C. Carpenter, Jr.

²⁰ C.A. No. 09A-10-008 (Del. Super. Sept. 13, 2010).

